

## **PART 5416—TYPES OF CONTRACTS**

### **Subpart 5416.2—Fixed Price Contracts**

Sec.

5416.203 Fixed-price contracts with economic price adjustment.

5416.203-1 Description.

5416.203-3 Limitations.

5416.203-4 Contract clauses.

AUTHORITY: Fixed Price Contracts

SOURCE: 64 FR 41835, Aug. 2, 1999, unless otherwise noted.

### **Subpart 5416.2—Fixed Price Contracts**

#### **5416.203 Fixed-price contracts with economic price adjustment.**

##### **5416.203-1 Description.**

(a)(S-90) Adjustments based on established prices. Established prices may reflect industry-wide and/or geographically based market price fluctuations for commodity groups, specific supplies or services, or contract end items.

(c)(S-90) Adjustments based on cost indexes of labor or materials. These price adjustments may also be based on increases or decreases in indexes for commodity groups, specific supplies or services, or contract end items.

##### **5416.203-3 Limitations.**

(S-90) A fixed price contract with economic price adjustment may also be used to provide for price adjustments authorized in this section.

##### **5416.203-4 Contract clauses.**

(S-90) When the contracting officer determines that an existing EPA clause is not appropriate, the contracting officer may develop and use another EPA clause in accordance with 5416.203-1 (a)(S-90) or (c)(S-90). Established prices and cost indexes need not reflect changes in the costs or established prices of a specific contractor. The established price or cost index may be derived from sales prices in the marketplace, quotes, or assessments as reported or made available in a consistent manner in a publication, electronic database, or other form, by an independent trade association, Governmental body, or other third party independent of the contractor. More than

one established price or cost index may be combined in a formula for economic price adjustment purposes in the absence of an appropriate single price or cost index.

## **PART 5433—PROTESTS, DISPUTES AND APPEALS**

AUTHORITY: 10 U.S.C. Chapter 137.

### **5433.214. Alternative Dispute Resolution (ADR).**

The contracting officer shall insert the provision in 5452.233 in all solicitations unless the conditions at FAR 33.203(b) apply.

[66 FR 27474, May 17, 2001]

## **PART 5452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

### **Subpart 5452.2—Texts of Provisions and Clauses**

Sec.

5452.233-9001 Disputes: Agreement to Use Alternative Dispute Resolution (ADR).

5452.249 Allocation.

AUTHORITY: 5 U.S.C. 301, 10 U.S.C. 2202, 48 CFR part 1, subpart 1.3 and 48 CFR part 201, subpart 201.3

### **Subpart 5452.2—Texts of Provisions and Clauses**

#### **5452.233-9001 Disputes: Agreement to Use Alternative Dispute Resolution (ADR).**

As prescribed in 5433.214, insert the following provision:

DISPUTES: AGREEMENT TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (APR 2001)—DLAD

(a) The parties agree to negotiate with each other to try to resolve any disputes that may arise. If unassisted negotiations are unsuccessful, the parties will use alternative dispute resolution (ADR) techniques to try to resolve the dispute. Litigation will only be considered as a last resort when ADR is unsuccessful or has been documented by the party rejecting ADR to be inappropriate for resolving the dispute.

(b) Before either party determines ADR inappropriate, that party must discuss the use of ADR with the other party. The documentation rejecting ADR must be signed by